

**Department of Planning and Permitting-Initiated Amendment to
Chapter 21 Land Use Ordinance, Revised Ordinances of Honolulu
Relating to Uses, Development Standards, and Definitions**

Staff Report

The proposed amendment updates the land uses, development standards associated with those specific uses, and definitions in the Revised Ordinances of Honolulu (ROH) Chapter 21 Land Use Ordinance (LUO) to better implement the plans and policies of the City and County of Honolulu. The intent is to have the regulations that affect uses located all in one place. The proposed Bill (see attached) repeals the existing Article 5 Specific Use Development Standards in the LUO and replaces it with a version that significantly reorganizes existing text and introduces new text. Consequently, the proposed Bill also introduces changes in Article 3 (Establishment of Zoning Districts and Zoning District Regulations) and Article 10 (Definitions), to eliminate duplication and any language that conflicts with the edits in Article 5. This includes moving the Master Use Table from Article 3 into the new Article 5 and relocating use definitions from the general definitions in Article 10 into the new Article 5. There are also a series of conforming revisions to correct use terms and cross-references throughout the LUO.

Beyond reorganizing the material, the revisions to the use definitions and standards are intended to not only respond to questions regularly asked by the public, but to look ahead to anticipate new land uses and strengthen existing ones to better reflect our island's goals and values.

Also woven into the proposed Bill is the Department of Planning and Permitting's (DPP) recommendation pertaining to the City Council's Resolution No. 20- 292 relating to farm village communities (see attached). While the DPP supports the Resolution's intent to increase agricultural production and food security by encouraging the development of housing for farm workers, the Council's Bill lacked the details to ensure that the great majority of the land remained primarily for agricultural purposes. As such, the DPP recommends that the Council's Bill be denied. The changes to Article 5 capture the Council's intent and strengthens it to safeguard that the quantity of farm worker homes is tied to an agricultural plan and is, thus, no more than what is minimally necessary to work the land.

Regarding the regulations pertaining to short-term rentals and hotels, given that the changes the DPP proposed in August of 2021 are currently at Council, the attached bill contains the existing regulations, as recommended by the Office of Council Services, along with the style and numbering conventions of the proposed Article 5.

I. BACKGROUND

The City Council approved funding beginning in the 2018 fiscal year for the DPP to initiate Phase I of the LUO update. During Phase I, input from over 100 individuals and professional land use planning organizations was gathered to determine how to proceed with an overall update to the aging document. Chiefly identified as a barrier to desirable development were the off-street parking regulations. Working with stakeholders, new parking and loading regulations were adopted in December 2020.

The City Council has since approved funding for Phases II through V of the LUO's update. A planning consultant, Code Studio, has been hired to assist with the drafting of the update. The submission of this report and attached Bill serve to complete Phase II. Phase III is already underway and will result in the streamlining of permitting processes and improvement of criteria associated with each permit type. In the future, Phase IV will involve updating the zoning districts, and finally, Phase V will update the remaining content and make the document more user-friendly overall, with new graphics and images.

This draft Bill helps implement the broad policies of Oahu's General Plan, as well as the various Development Plans and Sustainable Communities Plans.

Outreach

The Project began with the consultant's review of the outreach conducted in Phase I of the LUO Update. The existing use table, standards, and definitions were then analyzed for their relationship to zoning code content and organization best practices in other municipalities. Following that step, the Neighborhood Boards (NB) were apprised of the effort to update the LUO and an outreach survey was emailed to over 300 NB members. A total of 77 members responded. The survey focused on:

- General thoughts about the LUO, including ease of access to information;
- The land uses that are, or should be, brought to NBs for review; and,
- Specific uses that needed more in-depth discussion - based on the Phase I Outreach - such as hospitals, vertical farms, agritourism, and other contemporary uses.

Following the survey, a series of follow-up interviews were conducted with survey respondents and others, like utility providers, to clarify or provide additional detail on specific topics.

A public review draft was posted to the DPP website and stakeholders were apprised of its availability in June 2021. Comments received to date have been incorporated or addressed within the attached bill.

II. OVERVIEW OF REVISIONS

A. REORGANIZATION

General

The revised Article 5 Use Regulations combines contents from:

- The existing Article 5 Specific Use Development Standards, which contains standards that apply to specific uses;
- Article 3 Master Use Table, which contains the use permissions, i.e., the zoning districts in which uses are allowed or not allowed, and whether additional review processes such as conditional use permits are required; and,
- Article 10 Definitions, where many of the uses are defined today.

This content makes up the majority of the new Article 5 Use Regulations. The intent is to make use information easier to find due to its consolidation into a single Article.

Tables of Contents

The Table of Contents for Article 5 has been substantially re-organized in order to simplify the general location of the consolidated content. The current Article 5 Table of Contents contains only the Specific Use Development Standards and is generally organized alphabetically by use (although this has strained the numbering system to the extent that several uses have been added at the end without consideration of their location in the alphabet.) And, in order to keep up with changes over time, the numbering system has been forced to include numbering such as 21-5.80 as well as 21-5.80A.

The proposed Article 5 Table of Contents is more general in nature and more compact since all of the use content has been moved to this Article. It contains not only the Master Use Table (formerly located in Article 3) but also the use definitions from Article 10, along with the use standards previously located in Article 5.

Moving the Master Use Table from Article 3 into new Article 5 Use Regulations

The Master Use Table from Article 3 has been consolidated into Article 5 Use Regulations. The organization of the current Master Use Table is shown below. For the most part, materials are organized into alphabetical categories.

The proposed Article 5 use table is organized using both six broad categories that are more generally recognized land uses (based on best practice and federal guidance such as the North American Industry Classification System), and a series of subcategories within each broad category. The additional layer of organization makes moving through the use table easier. The use of color in the fully-formatted draft also cues the reader into where they are in the use table.

Moving Use Definitions from Article 10 into new Article 5 Use Regulations

Those definitions that are specific to just one use have been deleted from Article 10 Definitions and moved to the proposed Article 5 Use Regulations. Definitions and use standards are now located in close proximity in the proposed Article 5, which should make navigating the Article easier.

In addition, definitions related to use standards that apply across multiple LUO Articles have been added to Article 10 Definitions (as an example, the term “Accessory”).

B. NEW CONCEPTS

- **Consolidation of Material.** The new Article 5 consolidates material from Articles 3 and 10 into Article 5 for ease of navigation.
- **Focus on Impacts.** One of the key concepts in the new use permissions and standards is that of breaking down uses based on their impact. In many cases, this is portrayed with the terms “major” and “minor” while in others “small” and “large” are used.
- **Consistent Approach to Standards.** Standards have been made consistent (to the extent possible) throughout the Article, including hours of operation and use-specific setbacks.

C. IMPROVED FORMAT

The format for proposed Article 5 Use Regulations matches the existing LUO in many ways; however, it looks to a future when a more highly formatted document might be created (the final Phase of this revision process). The format improvements have been added to make each use easier to find within the document. The newly formatted material will match today’s numbering system and text indents, but it will also introduce the use of color, and switch the Master Use Table layout from today’s horizontal (landscape) mode to vertical (portrait) mode. The change in page layout alone shortens the overall Table by one-third.

Unfortunately, in accordance with the Office of Council Services Bill drafting standards, the draft Bill itself does not contain many of these format improvements. The colors, font sizes, and other elements of formatting have been removed for the purpose of Bill review and adoption. However, once adopted, the final online version for the public will contain these formatting and navigation enhancements.

Specific formatting elements in the new Article 5 Use Regulations include:

- Bold titles with larger font for ease of navigation throughout the Article;
- A newly-formatted Master Use Table

- Color separates large categories of uses from each other,
- Districts outlined in groups to allow easier reading of columns in the table,
- Page laid out in portrait mode (vertical) consistent with the remainder of the document, instead of landscape mode (horizontal), and
- Total table size reduced from 9 pages to 6 pages due to shift from landscape layout to portrait layout;
- Relocation of use definitions from Article 10, combined with the use standards, to make it easier to find all of the material related to each specific use;
- A separate listing of accessory uses (those uses that are found in conjunction with another use, such as a home occupation in a residential unit); and,
- The final version will include clickable hyperlinks on the use table to the definition and standards that apply to each use.

A version of what the document will look like when adopted is posted on the DPP's website. Clickable hyperlinks will be activated when the material is posted online.

D. IMPROVEMENTS PROPOSED BY TOPIC

Protects Agricultural Lands while Expanding Opportunities for Farmers

The preservation of existing agricultural lands is important in order to reduce the island's dependence on imports and contribute to a more sustainable economy. Part of this preservation involves removing or limiting non-agricultural uses from lands zoned for agricultural uses. The changes also focus on reducing the impacts of some elements of agritourism to ensure that agriculture comes first in these areas. Looking ahead to new technologies and industry practices, the revisions anticipate some agricultural activities in urban settings.

- Adds more explicit standards for farm dwellings intended to prevent "gentlemen farms;"
- Adds more opportunities for small, clustered farm worker housing (as proposed by City Council Resolution No. 20-293);
- Allows no new meeting facilities and group living facilities on land zoned for agricultural purposes; allows only existing, permitted facilities to continue;
- Adds new standards for farm stands that will be more enforceable;
- Adds new opportunities for vertical and urban farms to acknowledge that crop production can occur in locations that are not outside on agriculturally-zoned lands;
- Anticipates the growth of community gardens by adding it as a use with standards;
- Adds new standards and changed the permitting from a Minor Conditional Use Permit (CUP) requirement to a Major CUP for agritourism that protects agricultural land while creating more diverse economic opportunities for landowners; and,
- Clarifies standards for poultry raising and beekeeping in urban settings.

Expands Housing and Job Opportunities

The expansion of housing opportunities is needed to meet the growing demand for housing on the island. In addition, ensuring more people can work near where they live and drive less is a focus of changes to home occupations, employment uses in the Apartment Mixed Use Districts, and allowing neighborhood grocery stores and parks by right. Finally, promoting food access and entrepreneurship drove the new standards for food trucks and other mobile commercial establishments.

- Adds more diverse housing types to the use table, such as two-unit and three-unit dwellings;
- Allows new three-unit dwellings in the Apartment, Apartment Mixed Use, and Resort Districts;
- Allows residential uses above ground floor commercial uses in the B-1 and B-2 Districts;
- Anticipates the creation of new parks by private entities and, therefore, allows parks by right in all zoning districts except industrial districts;
- Expands permitted uses in the Apartment Mixed Use Districts to allow more employment near dense housing;
- Expands uses allowed as home occupations;
- Allows neighborhood grocery stores in residential areas, subject to standards; and,
- Provides new standards for food trucks (mobile commercial establishments).

Improves Regulation of Utilities

The changes to regulation of utility uses anticipate the growth of renewable energy on the island. They also ensure conformity with State and Federal standards, as well as ensuring public input on the largest or most significant facilities.

- Updates utility regulations to reflect recent Federal and State standards;
- Requires a 1.25 mile buffer between wind machines and Country, Residential, Apartment, Apartment Mixed Use and Resort Districts;
- Anticipates the growth of the 5G (fifth generation) cellular network and Internet of Things by adding requirements to better conceal rooftop antennas; and,
- Includes more opportunities for public input by requiring large utilities to obtain CUP approval.

Facilitates Adaptive Reuse and Transfer of Development Rights

In the interest of more walkable, vibrant growth in the existing urban parts of the island, additional uses have been proposed in Apartment Mixed Use and Business Mixed Use Districts. The process for reuse of a historic structure has been simplified and the transfer of development rights associated with the site is allowed and incentivized to

encourage protection of the Special Management Area (SMA) and in anticipation of continued sea level rise (SLR).

- Expands the uses permitted in Apartment Mixed Use and Business Mixed Use Districts;
- Simplifies the reuse of historic structures;
- Allows the transfer of development rights to preserve historic structures;
- Allows the transfer of development rights from SMA lands along the coast to less environmentally-sensitive areas that are:
 - Not located within the SMA,
 - Not located within the P-2 General Preservation District; and,
 - Not expected to be impacted by 3.2 feet of SLR by the year 2100.

E. OTHER ASSOCIATED LUO REVISIONS

The proposed Bill also includes the other associated revisions that are required due to changes made in the new Article 5. These are primarily for conformity in the naming of uses or cross-references.

The most significant conforming revisions not located in Article 5 are made in the Waikiki Special District (specifically LUO Section 21-9.80-9), which includes a revised use table updated to follow the use naming and organization from the new Article 5 Use Regulations. These revisions do not change the nature of what is allowed in the district, or how it is approved, but rather were made to align the use table for this special district with the proposed master use table in Article 5.

Additionally, in accordance with the Office of Council Services convention, style, and formatting guidance, other non-substantive amendments are included in this Bill. For example, the command “shall” is often changed to “must” to match the subject of the command.

III. RECOMMENDATION

The DPP recommends:

- Repealing the existing LUO Article 5 Specific Use Development Standards;
- Creating a new Article 5 Use Regulations that includes the Use Table, definitions specific to uses, and all the standards that apply to specific uses;
- Deleting the Master Use Table from Article 3 Establishment of Zoning Districts and Zoning District Regulations;
- Deleting all definitions specific to uses from Article 10 Definitions, and adding any necessary new definitions required due to new use standards; and
- Making the other necessary changes throughout the rest of the LUO to reflect the revised names of existing uses and new uses.

Additionally, the DPP recommends that Council Resolution No. 20-293 be denied because the use and standards for farm worker housing have been included/addressed in the Article 5 update.

ATTACHMENTS

DPP Bill Relating to Use Regulations
Resolution No. 20-293 Farm Village Communities
Spreadsheet Identifying Changes to the Use Definitions and Permissions